

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

PFIZER INC., PFIZER LIMITED, and
PFIZER IRELAND PHARMACEUTICALS,

Plaintiffs,

v.

TEVA PHARMACEUTICALS USA, INC.

Defendant.

Civil Action No. 2:10 cv 128 RBS/FBS

PLAINTIFFS' ANSWER TO DEFENDANT'S COUNTERCLAIM

Plaintiffs Pfizer Inc., Pfizer Limited, and Pfizer Ireland Pharmaceuticals (collectively “Pfizer”), by and through their undersigned attorneys, hereby answer the Counterclaim of Defendant Teva Pharmaceuticals USA, Inc. (hereinafter “Teva”), responding to the numbered allegations of the Counterclaim as follows:

1. In response to paragraph 1 of the Counterclaim, Pfizer reaffirms the allegations set forth in the Complaint.
2. Pfizer denies the allegations contained in paragraph 2 of the Counterclaim, except admits that Teva asserts that the Counterclaim is an action for a judgment declaring both that the claims of the ’012 patent are invalid and that Teva has not infringed and will not infringe any claim of the ’012 patent either directly or indirectly. Pfizer also admits that the ’012 patent is attached as Exhibit A to the Complaint.
3. Upon information and belief, Pfizer admits the allegations contained in paragraph 3 of the Counterclaim.

4. Pfizer admits the allegations contained in paragraph 4 of the Counterclaim.
5. Pfizer admits the allegations contained in paragraph 5 of the Counterclaim.
6. Pfizer admits the allegations contained in paragraph 6 of the Counterclaim.
7. Pfizer denies the allegations contained in paragraph 7 of the Counterclaim, except admits that Teva purportedly asserts the Counterclaim under the Declaratory Judgment Act, 28 U.S.C. §§ 2201(a) and 2202, and the Patent Law of the United States, 35 U.S.C. § 1, *et seq.* To the extent that paragraph 7 of the Counterclaim sets forth legal conclusions, no response is required.
8. Paragraph 8 of the Counterclaim sets forth legal conclusions to which no response is required.
9. Paragraph 9 of the Counterclaim sets forth legal conclusions to which no response is required.
10. Paragraph 10 of the Counterclaim sets forth legal conclusions to which no response is required.
11. Pfizer denies the allegations contained in paragraph 11 of the Counterclaim, except admits that an actual case or controversy exists between Teva and Pfizer regarding the validity and infringement of claims 25 and 26 the '012 patent, the only claims which Pfizer seeks to enforce as being infringed by Teva's importing, using, selling, or offering for sale in the United States the ANDA Products upon expiration of the '534 patent on March 27, 2012.
12. Pfizer admits the allegations contained in paragraph 12 of the Counterclaim.
13. Pfizer denies the allegations contained in paragraph 13 of the Counterclaim.

14. Pfizer denies the allegations contained in paragraph 14 of the Counterclaim.

Affirmative Defense

15. The Counterclaim fails to state a claim upon which relief can be granted.

WHEREFORE, Plaintiffs Pfizer Inc., Pfizer Limited, and Pfizer Ireland Pharmaceuticals request that the Court grant the following relief:

1. That the Court enter judgment herein in favor of Pfizer;
2. That the court dismiss the Counterclaim filed by Teva, with prejudice;
3. That all costs of this action be assessed against Teva;
4. That Pfizer be awarded attorneys' fees; and,
5. That the Court grant Pfizer all other relief to which it is entitled.

DATED: May 20, 2010

PFIZER INC., PFIZER LIMITED and PFIZER
IRELAND PHARMACEUTICALS

By: /s/
Brett A. Spain
VSB No. 44567
Conrad M. Shumadine
VSB No. 04325
*Attorneys for Pfizer Inc., Pfizer Limited
and Pfizer Ireland Pharmaceuticals*
Willcox & Savage, P.C.
One Commercial Place
Norfolk, VA 23510-2197
Tel: (757)628-5534
Fax: (757)628-5566
Email: bspain@wilsav.com

OF COUNSEL:

Aaron Stiefel
Daniel DiNapoli
Soumitra Deka
Marc Zubick
KAYE SCHOLER LLP
425 Park Avenue
New York, NY 10022-3598
Tel: (212)836-8000
Fax: (212)836-8689

Coke Morgan Stewart (Va. Bar. No. 41933)
R. William Sigler (Va. Bar No. 65940)
KAYE SCHOLER LLP
The McPherson Building
901 Fifteenth Street, N.W.
Washington, DC 20005
Tel: (202) 682-3500
Fax: (202) 682-3580
Email: coke.stewart@kayescholer.com
Email: bill.sigler@kayescholer.com

CERTIFICATE OF SERVICE

I hereby certify that on May 20, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Kevin James Culligan
Goodwin Procter LLP (NY-NA)
The New York Times Building
620 Eighth Ave
New York, NY 10018-1405
(212) 813-8800
(212) 355-3333 (fax)
kculligan@goodwinprocter.com

John Paul Hanish
Goodwin Procter LLP (NY-NA)
The New York Times Building
620 Eighth Ave
New York, NY 10018-1405
(212) 813-8800
(212) 355-3333 (fax)
jhanish@goodwinprocter.com

David Hashmall
Goodwin Procter LLP (NY-NA)
The New York Times Building
620 Eighth Ave
New York, NY 10018-1405
(212) 813-8800
(212) 355-3333 (fax)
dhashmall@goodwinprocter.com

David Michael Young
Goodwin Procter LLP (DC)
901 New York Ave NW
9th Fl East
Washington, DC 20001
(202) 346-4000
(202) 346-4444 (fax)
dyoung@goodwinprocter.com

Counsel for Defendant Teva Pharmaceuticals USA, Inc.

To the best of my knowledge, there are no attorneys who require service by U.S. Mail.

/s/

Brett A. Spain
(VSB No. 44567)
*Counsel for Pfizer Inc., Pfizer Limited and
Pfizer Ireland Pharmaceuticals*
WILLCOX & SAVAGE, P.C.
One Commercial Place, Suite 1800
Norfolk, Virginia 23510
Telephone: (757) 628-5534
Facsimile: (757) 628-5566
bspain@wilsav.com